IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.03.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.8272 of 2025 and
W.M.P.Nos.9275 and 9276 of 2025

M/s.Sai Sreenivasa Spintex India (P) Ltd.,
Rep. by its Director
Sri.G.Gopalsamy
23, GKR Nagar,
Chinniampalayam,
Coimbatore-641 062. ... Petitioner

Vs.

The State Tax Officer,
Peelamedu South Circle,
Coimbatore. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the respondent herein in GSTIN:33AAXCS2232C1ZI/2018-19 and quash the proceeding dated 07/10/2024.

For Petitioner : Mr.Raveendran B
For Respondents : Ms.P.Selvi
Government Advocate (Taxes)

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ORDER

The challenge in this writ petition is to the order dated 07.10.2024 passed by the Respondent and to quash the same.

2. Ms.P.Selvi, learned Government Advocate (Taxes), takes notice on behalf of the respondent.

3. By consent of the parties, the main Writ Petition is taken up for disposal at the time of admission stage itself.

4.The learned counsel for the petitioner submits that respondent issued show cause notices dated 05.09.2022 and 04.10.2023 to the Petitioner. Since, the same were uploaded in the "Additional Notices" tab in the GST Portal, the petitioner was unaware of the same. Under such circumstances, the respondent passed the impugned order dated 07.10.2024, demanding tax along with interest and penalty for the Assessment Year 2018-19 and the same was also uploaded in the GST portal. The petitioner came to know of the impugned proceedings only after getting a call from the respondent regarding the same.

5. Further, he would submit that no opportunity of personal hearing was granted to the petitioner before passing impugned order and therefore the same is in violation of principles of natural justice and hence prays to set aside the same.

6. On the other hand, the learned Government Advocate (Taxes) would submit that though the show cause notice followed by personal hearing notice were issued to the Petitioner, the petitioner neither submitted its reply nor appeared for personal hearing and therefore impugned order came to be passed.

7. In reply, the learned counsel for the petitioner would fairly submit that the petitioner is now ready and willing to pay 25% of the disputed tax liability made by the respondent in the event of providing an opportunity to them to file their reply along with the required documents

to substantiate their claim, for which, the learned Government Advocate (Taxes) has no serious objection.

8. Heard the learned counsel for the petitioner and the learned Government Advocate (Taxes) for the respondent and also perused the materials available on record.

9. In the present case, since show cause notices were uploaded in the GST portal, the petitioner was unaware of the same and hence could not file its reply. Under these circumstances, the impugned order came to be passed. Further, it appears that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Hence, this Court is of the view that the impugned order was passed in violation of principles of natural justice and it is just and necessary to provide an opportunity to the petitioner to establish their case on merits. In such view of the matter, this Court is inclined to set aside the impugned order passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 07.10.2024 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 25% of disputed tax to the respondent within a period of ***four weeks*** from the date of receipt of a copy of this order and the setting aside of the impugned order will take effect from the date of payment of the said amount.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(iii) On filing of such reply/objection by the petitioner, the respondent shall consider the same and issue a 14 days clear notice by fixing the date of personal hearing to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

12.03.2025

Speaking/Non-speaking order
Index : Yes / No

Neutral Citation : Yes / No
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KRISHNAN RAMASAMY.J.,

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To

The State Tax Officer,
Peelamedu South Circle,
Coimbatore.

W.P.No.8272 of 2025

12.03.2025

W.P.No.8451 of 2025 and
W.M.P.Nos.3445 and 3446 of 2023

21.02.2025

08.08.2024